

ELDER AFFAIRS DEPARTMENT [321]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby adopts amendments to Chapter 28, “Iowa Senior Living Program—Home- and Community-Based Services for Seniors,” Iowa Administrative Code.

The adopted amendments bring the chapter’s language into compliance with changes made in Iowa Code chapter 249H and add a severability clause to the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 2, 2008, as ARC 6918B.

The public comment period on this notice ended July 23, 2008. No comments were received.

The amendments are identical to those published under Notice.

The Commission adopted these amendments during their regularly scheduled meeting on August 18, 2008.

The amendments will become effective October 15, 2008.

These amendments implement Iowa Code chapter 231.

The following amendments are hereby adopted.

ITEM 1. Amend rule **321—28.3(231,249H)**, definition of “senior living program,” as follows:

“Senior living program” means the senior living program created in Iowa Code chapter 249H to provide for long-term care alternative services, ~~long-term care service development, and nursing facility conversion.~~

ITEM 2. Amend rule **321—28.6(231,249H)** by adopting the following new subrules:

28.6(3) An AAA may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the AAA does not utilize Older Americans Act funding for the same service category.

28.6(4) An AAA subcontractor may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the subcontractor does not receive Older Americans Act funding for the same service category.

ITEM 3. Amend rule **321—28.8(231,249H)** as follows:

321—28.8(231,249H) Prohibited use of senior living trust fund moneys. SLTF moneys shall ~~be~~ not be used to:

- ~~1. Fund the same service category when providing direct service.~~
- ~~2. Contract Older Americans Act funds and senior living trust funds to a provider for the same service category.~~
- ~~3~~ 1. Purchase a service when the client is eligible for third-party purchase of that service by sources such as Medicare, Medicaid, Medicaid home- and community-based services (HCBS) waiver and private long-term care insurance.
- ~~4~~ 2. Replace existing funding for a long-term care service.

The department may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the AAA to another long-term care service for seniors and results in an increase in total AAA funding for long-term care services to seniors equal to the SLTF dollars used for replacement.

ITEM 4. Amend subrule **28.9(1)** by rescinding paragraph “**b**” and relettering paragraph “**c**” as “**b**.”

ITEM 5. Amend paragraph **28.9(4)“b”** as follows:

b. ~~For subsequent state fiscal years,~~ SLTF service dollars appropriated under Iowa Code section 249H.7 shall be disbursed to subcontractors through the area plan process as described in 321 IAC 5.

ITEM 6. Amend 321—Chapter 28 by adding the following **new** rule:

321—28.11(231,249H) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.